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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,854	03/30/2004	Fidel Realyvasquez	CSI-2024	5603
7590	03/23/2007		EXAMINER	
Jeffrey J. Hohenshell 710 Medtronic Parkway Minneapolis, MN 55432			STEWART, ALVIN J	
			ART UNIT	PAPER NUMBER
			3738	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/814,854	REALYVASQUEZ ET AL.
	Examiner	Art Unit
	Alvin J. Stewart	3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 February 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-12,14-25 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-3 and 5-9 is/are allowed.
- 6) Claim(s) 10-12, 14-25, 27 and 29-32 is/are rejected.
- 7) Claim(s) 28 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>2/5/7</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-12 and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "said curved member" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-25, 27 and 29-32 are rejected under 35 U.S.C. 102 (b) as being anticipated by Williamson, IV et al US Patent 6,042,607.

Williamson, IV et al discloses a delivery apparatus comprising a delivery device (600) comprising a plurality of tube pairs (see opening between walls 688 & 692 in one side of element 680) arranged to support the heart valve prosthesis and a plurality of self-closing clips (730) having open and closed configurations (see Figs. 34A-34E), each clip slidably positioned in one tube of the tube pair. Wherein each tube having a slot (see opening parallel to wall 688) formed therethrough, each slot extending the entire length of a respective tube and configured to allow at least a portion of a respective clip to be ejected therethrough (see Fig. 32).

Regarding claim 20, see element 704 as the plunger.

Regarding claim 21, see Fig. 34B disclosing parallel ejection.

Regarding claim 27, Williamson, IV et al discloses a heart valve prosthesis (19, 20 & 11) having a curved member (19) and a skirt (11) extending therefrom and a plurality of self-closing clips (730) penetrating the curved member (see Figs. 12-16) and ejecting all the clips simultaneously to penetrate in the heart (see Figs. 12-14).

Regarding claim 29, the Examiner has interpreted the partial ring as follow: element 19 forms a partial ring because the implant is not completely installed. The implant forms a partial ring when element 19 is staple to the wall and it will form a complete ring when the heart valve is connected to element 19. In order to overcome the rejection the Applicant's representative has to describe that the partial ring has a C-shape form or something alike.

Regarding claim 30, Williamson, IV et al discloses a heart valve capable of being extended over the mitral valve posterior leaflet. The Applicant has not disclosed that the mitral valve leaflet is not resected. In order to overcome the rejection the Applicant's representative has to state that the skirt extends over the no-resected mitral valve posterior leaflet in order to clarify the

Regarding claim 32, elements 25 & 28 are rigid compare to the sewing cuff.

Allowable Subject Matter

Claims 1-3, and 5-9 are allowed.

Claims 10-12 and 15-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 02/05/07 have been fully considered but they are not persuasive.

Regarding claims 19-25, the Applicant's representative has entered new limitations in the independent claims. However, those new limitations still read on the Williamson, IV et al reference because the prior art discloses a slot formed therethrough and each slot extends the entire length (the slot has been interpreted by the examiner as the opening extending parallel to the surface 688).

Regarding claim 27, the Examiner disagrees with the Applicant's representative point of view. Figure 9 clearly discloses a curved member (19) connected to a tool, Figure 5 discloses a skirt (11) and the tool discloses a plurality of clips that simultaneously penetrate to the curved member (see Figs. 12-14). For the above reasons, the rejection to Williamson, IV et al is maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



**ALVIN J. STEWART
PRIMARY EXAMINER**

March 16, 2007.